

IOWA PUBLIC EMPLOYEES' RETIREMENT SYSTEM[495]

Adopted and Filed

Rule making related to five-year review of rules

The Iowa Public Employees' Retirement System hereby amends Chapter 4, "Employers," Chapter 5, "Employees," Chapter 11, "Application for, Modification of, and Termination of Benefits," Chapter 12, "Calculation of Monthly Retirement Benefits," Chapter 13, "Disability for Regular and Special Service Members," Chapter 14, "Death Benefits and Beneficiaries," Chapter 17, "Public Records and Fair Information Practices," and Chapter 19, "Declaratory Orders," Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is adopted under the authority provided in Iowa Code sections 97B.4 and 97B.15.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code chapter 97B.

Purpose and Summary

This rule making is intended to conform rules with other rules and statutes or rescind rules that are outdated, redundant or inconsistent, or no longer in effect to meet the requirements of the statutory five-year review of rules for Chapters 16 to 20; to implement contribution rates for employers and regular and special services members beginning July 1, 2021; to clarify and define "citizen coach" for employers; to clarify employers' reporting requirements for terminated employees; to ensure vendors with access to personally identifiable information (PII) sign IPERS' data-sharing agreement; to disallow funeral homes as beneficiaries; to streamline the retirement application process; to remove outdated language to better reflect modern member practice; to provide for overpayments to be collected more quickly and efficiently; to amend language to bring subrules into compliance with the Iowa Code; to update language to reflect current practice regarding open records requests, estimates of search fees, and advance payments when necessary; to provide for usernames to be added as a category of confidential record ensuring they may be withheld from public inspection; to revise language to acknowledge and reflect changes in file storage technology; to strike and replace language to be consistent with actual practice; and to align the "required beginning date" specified under IRS regulations with the provisions of the SECURE Act.

Public Comment and Changes to Rule Making

Notice of Intended Action for this rule making was published in the Iowa Administrative Bulletin on December 30, 2020, as **ARC 5359C**. A public hearing was held via Zoom conference call on January 29, 2021. No one attended the public hearing.

One comment was received asking IPERS to further revise subrule 17.3(3) (Item 10) by changing "shall" in the second sentence of the paragraph to the term "may" instead. In response to the public comment, a change was made to Item 10.

Adoption of Rule Making

This rule making was adopted by IPERS on February 3, 2021.

Fiscal Impact

IPERS' enabling legislation requires that employer and employee contribution rates for each member class be updated every fiscal year.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition IPERS for a waiver of the discretionary provisions, if any.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

Effective Date

This rule making will become effective on April 14, 2021.

The following rule-making actions are adopted:

ITEM 1. Amend rule 495—4.2(97B) as follows:

495—4.2(97B) Records to be kept by the employer.

4.2(1) and **4.2(2)** No change.

4.2(3) Reports.

a. No change.

b. Effective July 1, ~~1991~~ 2021, employers ~~must~~ shall report the termination date and date of final paycheck for all terminating employees to IPERS ~~within seven working days following the employee's termination date~~ with the final wage report for such employee. This report shall contain the employee's last-known mailing address and such other information as IPERS might require.

c. No change.

4.2(4) No change.

ITEM 2. Amend rule 495—4.6(97B) as follows:

495—4.6(97B) Contribution rates. The following contribution rate schedule, payable on the covered wage of the member, is determined by the position or classification and the occupation class code of the member.

4.6(1) Contribution rates for regular class members.

a. No change.

b. Effective July 1, 2012, and every year thereafter, the contribution rates for regular members shall be publicly declared by IPERS staff no later than the preceding December as determined by the annual valuation of the preceding fiscal year. The public declaration of contribution rates will be followed by rule making that will include a notice and comment period and that will become effective July 1 of the next fiscal year. Contribution rates for regular members are as follows.

	Effective July 1, 2016	Effective July 1, 2017	Effective July 1, 2018	Effective July 1, 2019	Effective July 1, 2020	Effective July 1, 2021
Combined rate	14.88%	14.88%	15.73%	15.73%	15.73%	<u>15.73%</u>
Employer	8.93%	8.93%	9.44%	9.44%	9.44%	<u>9.44%</u>
Employee	5.95%	5.95%	6.29%	6.29%	6.29%	<u>6.29%</u>

4.6(2) Contribution rates for sheriffs and deputy sheriffs are as follows.

	Effective July 1, 2016	Effective July 1, 2017	Effective July 1, 2018	Effective July 1, 2019	Effective July 1, 2020	Effective July 1, 2021
Combined rate	19.26%	18.76%	19.52%	19.02%	18.52%	18.02%
Employer	9.63%	9.38%	9.76%	9.51%	9.26%	9.01%
Employee	9.63%	9.38%	9.76%	9.51%	9.26%	9.01%

4.6(3) Contribution rates for protection occupations are as follows.

	Effective July 1, 2016	Effective July 1, 2017	Effective July 1, 2018	Effective July 1, 2019	Effective July 1, 2020	Effective July 1, 2021
Combined rate	16.40%	16.40%	17.02%	16.52%	16.02%	15.52%
Employer	9.84%	9.84%	10.21%	9.91%	9.61%	9.31%
Employee	6.56%	6.56%	6.81%	6.61%	6.41%	6.21%

4.6(4) to 4.6(7) No change.

ITEM 3. Adopt the following **new** subrule 5.2(51):

5.2(51) A citizen coach is an employee (permanent or temporary) who works for a school district in only a coaching capacity. An employer may provide a citizen coach with IPERS coverage immediately. If the employer chooses not to, then the following determination of IPERS coverage is needed:

a. If the citizen coach is expected to fill the position each season and cannot be unseated by another district employee, then the district and citizen coach have established a permanent relationship and IPERS coverage should begin once that citizen coach returns to coach a second season.

b. If there is no expectation of continued employment beyond the first season for the citizen coach, or if the citizen coach can be unseated by another district employee, then a temporary relationship exists and the citizen coach shall only be covered if the citizen coach meets the requirements of subrule 5.2(13).

ITEM 4. Amend subrule 11.1(1) as follows:

11.1(1) *Form used.* It is the responsibility of the member to notify IPERS of the intention to retire. This should be done 60 days before the expected retirement date. The application for monthly retirement benefits is obtainable from IPERS, 7401 Register Drive, P.O. Box 9117, Des Moines, Iowa 50306-9117. The printed application form shall be completed by each member applying for benefits and shall be mailed, sent by fax or brought in person to IPERS. An application that is incomplete or incorrectly completed will be returned to the member. To be considered complete, an application must include the following:

a. to c. No change.

d. Signature of member and spouse, ~~both properly notarized unless witnessed by an authorized employee of the system.~~

e. to g. No change.

A retirement application is deemed to be valid and binding on the date the first payment is paid. Members shall not cancel their applications, change their option choice, or change an IPERS option containing contingent annuitant benefits after that date.

ITEM 5. Amend subrule 11.1(2) as follows:

11.1(2) *Proof required in connection with application.* Proof of date of birth to be submitted with an application for benefits shall be in the form of a birth certificate, a U.S. passport, an infant baptismal certificate, an identification card or driver's license issued by the state of Iowa, a state identification card that is issued in compliance with the REAL ID Act of 2005, or a driver's license that is issued in compliance with the REAL ID Act of 2005. If these records do not exist, the applicant shall submit two other documents or records which will verify the day, month and year of birth. A photographic identification record may be accepted even if now expired unless the passage of time has made it

impossible to determine if the photographic identification record is that of the applicant. The following records or documents are among those deemed acceptable to IPERS as proof of date of birth:

- a. to h.* No change.
- i.* Adoption papers; or
- ~~*j.* A family Bible record. A photocopy will be accepted with a notarized certification that the record appears to be genuine; or~~
- ~~*k. j.*~~ Any other document or record ten or more years old, or certification from the custodian of such records which verifies the day, month, and year of birth.

If the member, the member's representative, or the member's beneficiary is unable or unwilling to provide proof of birth, or in the case of death, proof of death, IPERS may rely on such resources as it has available, including but not limited to records from the Social Security Administration, Iowa division of records and statistics, IPERS' own internal records, or reports derived from other public records, and other departmental or governmental records to which IPERS may have access.

IPERS is required to begin making payments to a member or beneficiary who has reached the required beginning date specified by Internal Revenue Code Section 401(a)(9). In order to begin making such payments and to protect IPERS' status as a plan qualified under Internal Revenue Code Section 401(a), IPERS may rely on its internal records with regard to date of birth, if the member or beneficiary is unable or unwilling to provide the proofs required by this subrule within 30 days after written notification of IPERS' intent to begin mandatory payments.

ITEM 6. Amend subrule 11.2(4) as follows:

11.2(4) Required beginning date.

a. Notwithstanding the foregoing, IPERS shall commence payment of a member's retirement benefit under Iowa Code sections 97B.49A to 97B.49I (under Option 2) no later than the "required beginning date" specified under Internal Revenue Code Section 401(a)(9), even if the member has not submitted the application for benefits. If the lump sum actuarial equivalent could have been elected by the member, payments shall be made in such a lump sum rather than as a monthly allowance. The "required beginning date" is defined as the later of: (1) April 1 of the year following the year that the member attains the age of 72 (or the age of 70 ½ for that member who attains the age of 70 ½ on or before December 31, 2019), or (2) April 1 of the year following the year that the member actually terminates all employment with employers covered under Iowa Code chapter 97B.

b. to e. No change.

ITEM 7. Amend rule 495—12.7(97B) as follows:

495—12.7(97B) Reemployment of retired members.

12.7(1) No change.

12.7(2) Beginning on or after July 1, 1996, the retirement allowance of a member subject to reduction pursuant to subrule 12.7(1) shall be reduced as follows:

a. and b. No change.

c. The member's overpayment shall be collected as follows:

(1) IPERS will reduce the member's gross monthly benefit by ~~30~~ 50 percent until the overpayment is repaid. If the ~~30~~ 50 percent reduction will not recover the overpayment by the end of the current calendar year, IPERS will calculate the monthly reduction amount so that the overpayment will be recovered within the current calendar year. Other monthly reduction amounts may be made by an agreement in writing between the member and IPERS; or

(2) to (4) No change.

12.7(3) to 12.7(5) No change.

ITEM 8. Amend subrule 13.1(2) as follows:

13.1(2) If a member returns to covered employment after achieving a bona fide retirement, ~~and is no longer eligible for social security or railroad disability benefits,~~ the benefits being provided to the member under Iowa Code section 97B.50(2) "a" or "b" shall be suspended or reduced as follows. If the member has not attained the age of 55 upon reemployment, benefit payments shall be suspended in their

entirety until the member subsequently terminates employment, applies for, and is approved to receive benefits under the provisions of Iowa Code chapter 97B. If the member has attained the age of 55 or older upon reemployment, the member shall continue to receive monthly benefits adjusted as follows. Monthly benefits shall be calculated under the same benefit option that was first selected, based on the member's age, years of service, and the applicable reductions for early retirement as of the month that the member returns to covered employment. The suspension or reduction of benefits for returning to covered employment no longer applies as of the calendar year the member reaches normal retirement age, as defined by Iowa Code section 97B.45, or for special service members aged 55, or sheriffs and deputies aged 50 with 22 years of service. The member's benefit shall also be subject to the applicable provisions of Iowa Code section 97B.48A pertaining to reemployed retired members.

ITEM 9. Amend rule 495—14.3(97B) as follows:

495—14.3(97B) Designation of beneficiaries.

14.3(1) *Designation of beneficiaries.* To designate a beneficiary, the member must complete an IPERS designation of beneficiary form, which must be filed with IPERS. Members may also designate their beneficiary through the IPERS website. The designation of a beneficiary by a retiring member on the application for monthly benefits revokes all prior designation of beneficiary forms. IPERS may consider as valid a designation of beneficiary form filed with the member's employer prior to the death of the member, even if that form was not forwarded to IPERS prior to the member's death. If a retired member is reemployed in covered employment, the most recently filed beneficiary form shall govern the payment of all death benefits for all periods of employment. Notwithstanding the foregoing sentence, a reemployed IPERS Option 4 or 6 retired member may name someone other than the member's contingent annuitant as beneficiary, but only for lump sum death benefits accrued during the period of reemployment and only if the contingent annuitant has died or has been divorced from the member before or during the period of reemployment unless a qualified domestic relations order (QDRO) directs otherwise. If a reemployed IPERS Option 4 or 6 retired member dies without filing a new beneficiary form, the death benefits accrued for the period of reemployment shall be paid to the member's contingent annuitant, unless the contingent annuitant has died or been divorced from the member. If the contingent annuitant has been divorced from the member, any portion of the lump sum death benefits awarded in a QDRO shall be paid to the contingent annuitant as alternate payee, and the remainder of the lump sum death benefits shall be paid to the member's estate or, if applicable, to the member's heirs if no estate is probated. A funeral home shall not be designated as a beneficiary.

14.3(2) to 14.3(4) No change.

ITEM 10. Amend rule 495—17.3(17A,22) as follows:

495—17.3(17A,22) Requests for access to records.

17.3(1) and 17.3(2) No change.

17.3(3) *Request for access.* Requests for access to open records may be made in writing, by telephone, electronically or in person. ~~All requests shall include the name, address, telephone number, and the E-mail address (if available) of the person requesting the information.~~ IPERS may request the name, address, telephone number, and the email address (if available) of the person requesting the information to ensure timely delivery of the documentation, search fee, or both, if applicable. All requests for information regarding member accounts must contain the member's identification number or social security number. Requests shall identify the particular records sought by name or other personal identifier and shall include a description in order to facilitate the location of the record. A person shall not be required to give a reason for requesting an open record. ~~The request shall indicate the maximum search fee the requester is prepared to pay. If the maximum amount is reached before the requested records have been located and copied, the requester shall be notified and asked for further directions.~~ If a search fee is applicable, IPERS will contact the requesting party with an estimate prior to collecting the data.

17.3(4) to 17.3(6) No change.

17.3(7) Fees.

a. to d. No change.

e. *Advance payments.*

(1) ~~When the estimated fee chargeable under this subrule exceeds \$25, the requester shall be required to make an advance payment of the estimated fee. Upon completion of the request for records, the actual fee shall be calculated and the difference refunded or collected.~~

(2) When a requester has previously failed to pay a an applicable search fee ~~charged under this subrule~~, full advance payment of future estimated fees of any amount may be required before processing a new or pending request for access to records from that requester.

ITEM 11. Amend rule 495—17.13(17A,22) as follows:

495—17.13(17A,22) Availability of records.

17.13(1) No change.

17.13(2) Confidential records. The following records under the jurisdiction of the agency may be withheld from public inspection. Records are listed by category, according to the legal basis for withholding them from public inspection.

a. to c. No change.

d. Records which are exempt from disclosure under Iowa Code sections 22.7 and 97B.17, including, but not limited to:

(1) and (2) No change.

(3) Log-on identification passwords, Internet protocol addresses, usernames, private keys, or other records containing information which might lead to disclosure of private keys used in a digital signature or other similar technologies as provided in Iowa Code chapter 554D.

(4) No change.

e. to i. No change.

17.13(3) No change.

ITEM 12. Amend subrules 17.14(1) to 17.14(3) as follows:

17.14(1) IPERS personnel files and records. Personnel files of IPERS employees are maintained and kept under the jurisdiction of the agency and contain personal, private, and otherwise confidential records under Iowa Code section 22.7(11). It is unlikely that the personal and private information in these records can be separated from otherwise releasable information without identifying the subject or the employee's family. These records contain names, social security numbers and other identifying numbers, ~~and are collected in the form of paper, microfilm, tape, and computer records.~~ Data processing systems permit the comparison of personally identifiable information in one record system with that in another system.

17.14(2) Iowa public employees' retirement system. The retirement system possesses records that concern individual public employees who are covered by IPERS and their families. Records are collected in accordance with Iowa Code chapter 97B and are confidential records in part under Iowa Code sections 22.7 and 97B.17. These records contain names, addresses, social security numbers, and other identifying numbers, ~~and are collected in the form of paper, microfilm, tape, and computer records.~~ Data processing systems permit the comparison of personally identifiable information in one record system with that in another system.

17.14(3) Vendor contracts. These are records pertaining to facilities management, training, investment management, and other services. These records are collected in accordance with Iowa Code chapter 97B and are confidential records in part under Iowa Code section 22.7. These records contain names, addresses, social security numbers, and other identifying numbers, ~~and are collected in the form of paper, microfilm, tape, and computer records.~~ Data processing systems permit the comparison of personally identifiable information in one record system with that in another system. Vendors that have access to personally identifiable information shall sign a data-sharing agreement as requested by IPERS.

ITEM 13. Strike “file-stamped copy” wherever it appears in **495—Chapter 19** and insert “date-stamped copy” in lieu thereof.

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EDITOR’S NOTE: For replacement pages for IAC, see IAC Supplement 3/10/21.